

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK**

ANIF CHRISTOPHER WILLIAMS,

Petitioner,

v.

**9:05-CV-182
(FJS/DEP)**

D. B. DREW, Warden, FCI Raybrook,

Respondent.

APPEARANCES

**ANIF CHRISTOPHER WILLIAMS
03776-084**

FCI Ray Brook

P.O. Box 9006

Ray Brook, New York 12977

Petitioner *pro se*

SCULLIN, Chief Judge

ORDER

On February 10, 2005, Petitioner Anif Christopher Williams filed a petition for habeas corpus relief pursuant to 28 U.S.C. § 2241. *See* Dkt. No. 1. By Order dated April 8, 2005, this Court dismissed that petition without prejudice. *See* Dkt. No. 4. Currently before the Court is Petitioner's motion for a Certificate of Appealability ("COA"). *See* Dkt. No. 6.

As an initial matter, the Court notes that Petitioner has not filed a Notice of Appeal. However, the Second Circuit has held that a court may construe a motion for a COA as a Notice of Appeal. *See Marmolejo v. United States*, 196 F.3d 377, 378 (2d Cir. 1999). Furthermore, Petitioner's motion clearly evidences his intent to appeal this Court's dismissal of his petition to the Second Circuit Court of Appeals. *See* Dkt. No. 6 at 1-2. Therefore, the Court will construe

Petitioner's motion for a COA as a Notice of Appeal.

Nonetheless, because a federal prisoner is not required to obtain a COA to challenge the denial of a petition brought pursuant to 28 U.S.C. § 2241, *see Yu v. United States*, 183 F. Supp. 2d 657, 664 (S.D.N.Y. 2002) (citing *Murphy v. United States*, 199 F.3d 599, 601 n.2 (2d Cir. 1999) (certificate of appealability requirement does not apply to federal prisoner bringing petition pursuant to 28 U.S.C. § 2241)), the Court denies Petitioner's motion for a COA as moot.

Accordingly, for the above-stated reason, the Court hereby

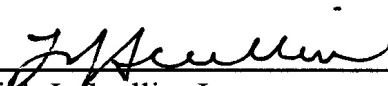
ORDERS that Petitioner's motion for a Certificate of Appealability shall be construed as a Notice of Appeal; and the Court further

ORDERS that Petitioner's motion for a Certificate of Appealability is **DENIED AS MOOT**; and the Court further

ORDERS that the Clerk of the Court serve a copy of this Order on Petitioner by regular mail.

IT IS SO ORDERED.

Dated: April 22, 2005
Syracuse, New York



Frederick J. Scullin, Jr.
Chief United States District Court Judge